

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**NOREEN SALAZAR, Individually, and as
Wrongful Death Personal Representative of
THE ESTATE OF JOSEPH PORTILLO,**

Plaintiff,

v.

No. 12cv0053 MV/LAM

GINA BOCANEGRA, et al.,

Defendants.

**ORDER GRANTING IN PART MOTION FOR
PROTECTIVE ORDER AND STAY**

THIS MATTER comes before the Court on Defendant Bocanegra's *Motion for Protective Order and Stay* (*Doc.66*), filed May 18, 2012. On May 21, 2012, Plaintiff filed a response to the motion (*Doc. 71*), and on May 24, 2012, the Court held a hearing on the motion at which counsel for all parties appeared. *See Clerk's Minutes* (*Doc. 80*). The motion states that a conflict has arisen between Defendants Bocanegra and Michael Most Trucking, and asks the Court to stay all pending discovery against Defendant Bocanegra until she can obtain new counsel. Having considered the motion, response, and the parties' statements at the May 24, 2012 hearing, the Court **FINDS** that the motion shall be **GRANTED in part**.

Plaintiff first contends that the motion is untimely because Defendant Bocanegra's answers and responses to discovery were due May 16, 2012, and the motion was filed May 18, 2012. The Court finds that this argument is without merit because counsel for Defendant Bocanegra filed a similar motion on this issue on May 15, 2012 [*Doc. 48*], but that motion was denied without prejudice for failing to comply with the Court's local rules and administrative procedures [*Doc. 54*].

Next, Plaintiff contends that the motion should be denied because there is no actual conflict between Defendants Bocanegra and Michael Most Trucking. The Court addressed this issue with the parties at the May 24, 2012 hearing, and it appears that not only is there a conflict between the Defendants, but such conflict may require Mr. Richards to withdraw from representing any of the Defendants. The Court finds this contention to be without merit as well.

Finally, Plaintiff contends that the motion should be denied because further delay prejudices Plaintiff's ability to prepare her case. This concern was addressed at the May 24, 2012 hearing as well, and the Court is sympathetic to Plaintiff's position. However, the conflict of interest must be addressed properly to protect the interests of all parties, including Plaintiff's interests, and the Court finds that a limited stay is necessary because Defendant Bocanegra cannot respond to discovery without counsel to represent her. Therefore, as agreed to at the May 24, 2012 hearing, the Court will stay discovery as to Defendants Bocanegra and Michael Most Trucking until the June 6, 2012 mediation has concluded, and, if this case is not resolved at that mediation, the Court will enter new discovery deadlines to move the case forward as quickly as possible.

IT IS THEREFORE ORDERED that, for the reasons stated above, Defendant Bocanegra's *Motion for Protective Order and Stay (Doc.66)* is **GRANTED in part**, and discovery in this case is stayed as to Defendants Bocanegra and Michael Most Trucking until the June 6, 2012 mediation has concluded.

IT IS SO ORDERED.


LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE